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Attorneys for State Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARK A. MELEASON, Personal
Representative of the Estate of MARGANNE
M. ALLEN, Deceased,

Plaintiff,

v.

UNITED STATES OF AMERICA; SAMUEL
TROY LANDIS; DRUG ENFORCEMENT
ADMINISTRATION (DEA); SALEM
POLICE DEPARTMENT; CITY OF SALEM;
STATE OF OREGON; OREGON STATE
POLICE; and OREGON DEPARTMENT OF
JUSTICE,

Defendants.

Case No. 6:25-cv-00232-MTK

STATE DEFENDANTS' MOTION
TO DISMISS

LR 7-1 Certification

A good faith effort to resolve the issues presented herein was made through telephone and email communications with plaintiff's counsel. Plaintiff opposes these motions.

MOTIONS TO DISMISS

Defendants State of Oregon, Oregon State Police, and the Oregon Department of Justice ("State Defendants") move to dismiss plaintiff's claims against them based on 11th Amendment/sovereign immunity. The Oregon Department of Justice also moves to dismiss for failure to state a claim against it, particularly, under Fed. R. Civ. P. 12(b)(6).

MEMORANDUM OF LAW

The states are not subject to state law tort actions in federal courts under 11th Amendment immunity, which is really a function of the states' sovereign immunity. *Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 54 (1996); *Alden v. Maine*, 527 U.S. 706, 729 (1999).

The immunity extends not only to the state itself but also to “arms” of the state. *Kohn v. State Bar of California*, 87 F.4th 1021, 1026-27 (2023). There can be no reasonable dispute that the Oregon State Police and Oregon Department of Justice are arms of the State of Oregon. *Id.* at 1030 (setting forth three-factor test).

Separately, the Oregon Department of Justice (ODOJ) also moves to dismiss for failure to state a claim. Although ODOJ is listed as a defendant in the caption of the complaint, there is not a single allegation against ODOJ. This falls well short of the “plausible grounds” pleading standards required by Fed. R. Civ. P. 8(a)(2). *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007).

DATED March 14, 2025.

Respectfully submitted,

DAN RAYFIELD
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s/ Drew K. Baumchen
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CERTIFICATE OF SERVICE

I certify that on March 14, 2025, I served the foregoing STATE DEFENDANTS' MOTION TO DISMISS upon the parties hereto by the method indicated below, and addressed to the following:

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Attorney for Plaintiff

☐ HAND DELIVERY
☐ MAIL DELIVERY
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
☐ E-MAIL
☒ E-SERVE

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